

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 03-0135P**  
**Sales and Use Taxes**  
**Calendar Years 1999, 2000, and 2001**

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**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is a small business corporation that owns and manages a hotel. Upon audit it was discovered that the taxpayer had no use tax accrual system in place and failed to report sales tax from its vending machine sales, for meeting room rentals, movie rentals, and telephone charges.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer requests that the penalty assessed be waived because it was not aware of all the services that were taxable. Taxpayer states it now understands the requirements and agrees to the tax assessment.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to self-assess and remit tax on 100% of its untaxed taxable purchases for all years at audit and has not provided reasonable cause to allow the department to waive the penalty.

**FINDING**

Taxpayer's protest is denied.